

AMENDED IN ASSEMBLY JULY 2, 1998

AMENDED IN ASSEMBLY JUNE 16, 1998

AMENDED IN SENATE MAY 20, 1997

SENATE BILL

No. 1038

Introduced by Senator Thompson

February 27, 1997

An act to amend Sections 4512, 4640, 4646, 4646.5, 4648, 4648.1, 4670, 4675, 4676, 4677, 4681.1, 4685, 4712, 4712.5, 4740, 4741, 4742, 4743, 4744, 4745, and 4747 of, to add Sections 4685.1, 4685.2, 4697, and 4742.1 to, to add and repeal Section 4685.5 of, to repeal Section 4541 of, and to repeal and add Section 4696.1 of, the Welfare and Institutions Code, relating to human services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1038, as amended, M. Thompson. Developmental disabilities.

Existing law, the Lanterman Developmental Disabilities Services Act (hereafter the act) requires the State Department of Developmental Services to contract with regional centers for the provision of various services and supports to persons with developmental disabilities.

Existing law requires that the services and supports to be provided to each regional center client be determined pursuant to the development of an individual program plan.

Existing law requires that the plan be developed jointly with a planning team, as defined.

This bill would add to those members who may, where appropriate, be on a planning team, the authorized representative of a person with a developmental disability.

Existing law requires that the process for the development of an individual program plan include specified elements.

This bill would also require this planning process to include, when agreed to by the consumer, the parents, the legal guardian of a minor consumer, the conservator of an adult consumer, or the consumer's authorized representative, a review of all prescription medications taken by the consumer and the reasons for the medications.

Existing law permits a regional center, pursuant to vendorization or a contract, to purchase services and supports for a consumer from any individual or agency which the regional center and consumer or, where appropriate, his or her parents, legal guardian or conservator or authorized representative, will best accomplish all or any part of the consumer's individual program plan.

This bill would permit a regional center to vendorize a licensed facility for exclusive services to persons with developmental disabilities at a capacity equal to or less than the facility's licensed capacity.

Existing law permits a regional center to place a person with a developmental disability in a community living arrangement under certain circumstances.

Existing law provides that a person with a developmental disability who is placed in a community living arrangement has certain rights that are required to be brought to the person's attention by any means the director may designate by regulation.

This bill would require that these means be any means necessary to communicate these rights, and would require that, at a minimum, the Director of Developmental Services prepare, provide, and require to be clearly posted in all residential facilities and day programs a poster using simplified language and pictures that is designed to be more understandable by persons with cognitive disabilities and that the rights information shall also be available through the regional center to each residential facility and day program in alternative formats.



Existing law permits the department and regional centers to monitor services purchased for consumers with or without notice, except that monitoring without prior notice is limited to situations where the department or regional center determines that the purpose of the visit would be thwarted if advance notice were given.

This bill would delete this limitation, and would, instead, require that not less than one monitoring visit to a licensed community care facility or family home agency home each year shall be unannounced.

Existing law requires that the state plan developed under the act be the primary method used for determining, in an orderly way, the programs and facilities that shall be developed, expanded, terminated, or reduced.

This bill would, instead, require that the state plan be a method used for determining, in an orderly way, the services and supports that shall be developed to address unavailable or emerging service and support needs.

Existing law requires that all parental fees collected by or for regional centers be remitted to the State Treasury for deposit in the Developmental Disabilities Program Development Fund, which is created for the purpose of providing resources needed to initiate new programs consistent with approved priorities for program development in the state plan.

This bill would, instead, provide that the purpose of this fund is to provide resources needed to initiate new services and supports and to test new strategies in the delivery of services and supports, consistent with approved priorities for program development in the state plan. It would also impose certain other requirements related to procedures for making decisions concerning proposed expenditures from this fund and for examining expenditures made from the fund.

Existing law requires the department to establish rates for out-of-home care of eligible persons with developmental disabilities residing in community care facilities, in accordance with an Alternative Residential Model, with these rates being required to include an adequate amount to care for basic living needs, as defined.

This bill would make various changes to these provisions, including a requirement that the department adopt regulations for the establishment of these rates. It would also impose requirements for the periodic updating of these reimbursement rates.

The bill would also require a regional center, whenever a minor child with a developmental disability requires an out-of-home living arrangement, as determined in the individual program plan, to make every effort to secure a living arrangement in reasonably close proximity to the family home. If a living arrangement in close proximity to the child's home cannot be secured, the regional center would, under specified circumstances, be required to undertake certain efforts aimed at either returning the child to his or her home or securing a living arrangement in close proximity to his or her own home.

The bill would permit a regional center to provide or secure an array of services and supports for adults with developmental disabilities living in their family's home that meet specific goals.

The bill would require the department to conduct a 3-year pilot project to provide funding to local self-determination programs that will enhance the ability of a consumer and his or her family to control the decisions and resources required to meet all or some of the objectives in his or her program plan.

The bill would require regional centers and county mental health agencies to undertake various joint efforts with respect to persons dually diagnosed as mentally ill and developmentally disabled, and would require state agency participation in these cases when certain conditions exist. It would also require the department, by May 15 of each year, to provide specified information to the Legislature relating to persons with this dual diagnosis. Since the bill would impose specified duties upon county mental health agencies, it would impose a state-mandated local program.

The bill would also require the department, by January 15, 1999, to establish a task force, composed as specified, to examine the current models of community-based service and support delivery, the associated ratesetting methodologies for



service providers, supports to persons with developmental disabilities and their families, and methods of monitoring the quality of services and supports. The task force would be required to make recommendations to the Legislature by June 15, 1999.

Existing law permits regional center clients and persons acting on their behalf to have a fair hearing before an administrative law judge in order to appeal regional center decisions.

Existing law requires these administrative law judges to have training in the laws and regulations governing services to developmentally disabled individuals.

This bill would require these judges to have training related to the needs of persons with developmental disabilities, in accordance with specified requirements.

The bill would require the department to collect and maintain or cause to be collected and maintained copies of all redacted administrative hearing decisions issued under the act, and make copies available to the public upon request, at a cost per page not greater than that charged by the department for documents sought under the California Public Records Act.

Existing law provides that a fair hearing on a regional center decision shall be held at a time and place reasonably convenient to the claimant and the authorized representative.

This bill would require that the claimant or the authorized representative of the claimant and the regional center agree on the location of the fair hearing.

Existing law requires that a regional center or its designated representative monitor the care and services provided the consumer to ensure that care and services are provided in accordance with the individual program plan.

This bill would provide that a statement made by a regional center representative when discharging his or her obligation to monitor the provision of services and supports pursuant to the act shall be a privileged communication, unless a party to a judicial action demonstrates that the regional center representative made the disputed statement with knowledge of its falsity or with reckless disregard for the truth.

Existing law permits a regional center or its designee, if an adult person with a developmental disability or the parent, guardian, or conservator on behalf of a child, requests relocation, to provide assistance in locating and moving to another residence.

This bill would, instead, require the regional center, if requested by an adult or by the parent, legal guardian or conservator, or authorized representative on behalf of a child, to either provide this assistance or schedule an individual program plan meeting, if appropriate.

Existing law prohibits a regional center or its designee from encouraging the client to move from a residential facility without reasonable cause, and requires that, if reasonable cause exists, the regional center or its designee must give at least 15 days' written notice to the facility administrator of the intent prior to counseling the client to move.

This bill would delete these provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4512 of the Welfare and
- 2 Institutions Code is amended to read:
- 3 4512. As used in this part:
- 4 (a) "Developmental disability" means a disability
- 5 which originates before an individual attains age 18,
- 6 continues, or can be expected to continue, indefinitely,
- 7 and constitutes a substantial disability for that individual.



1 As defined by the Director of Developmental Services, in
2 consultation with the Superintendent of Public
3 Instruction, this term shall include mental retardation,
4 cerebral palsy, epilepsy, and autism. This term shall also
5 include disabling conditions found to be closely related to
6 mental retardation or to require treatment similar to that
7 required for individuals with mental retardation, but shall
8 not include other handicapping conditions that are solely
9 physical in nature.

10 (b) "Services and supports for persons with
11 developmental disabilities" means specialized services
12 and supports or special adaptations of generic services
13 and supports directed toward the alleviation of a
14 developmental disability or toward the social, personal,
15 physical, or economic habilitation or rehabilitation of an
16 individual with a developmental disability, or toward the
17 achievement and maintenance of independent,
18 productive, normal lives. The determination of which
19 services and supports are necessary for each consumer
20 shall be made through the individual program plan
21 process. The determination shall be made on the basis of
22 the needs and preferences of the consumer or, when
23 appropriate, the consumer's family, and shall include
24 consideration of a range of service options proposed by
25 individual program plan participants, the effectiveness of
26 each option in meeting the goals stated in the individual
27 program plan, and the cost-effectiveness of each option.
28 Services and supports listed in the individual program
29 plan may include, but are not limited to, diagnosis,
30 evaluation, treatment, personal care, day care,
31 domiciliary care, special living arrangements, physical,
32 occupational, and speech therapy, training, education,
33 supported and sheltered employment, mental health
34 services, recreation, counseling of the individual with a
35 developmental disability and of his or her family,
36 protective and other social and sociolegal services,
37 information and referral services, follow-along services,
38 adaptive equipment and supplies; advocacy assistance,
39 including self-advocacy training, facilitation and peer
40 advocates; assessment; assistance in locating a home;

1 childcare; behavior training and behavior modification
2 programs; camping; community integration services;
3 community support; daily living skills training;
4 emergency and crisis intervention; facilitating circles of
5 support; habilitation; homemaker services; infant
6 stimulation programs; paid roommates; paid neighbors;
7 respite; short-term out-of-home care; social skills training;
8 specialized medical and dental care; supported living
9 arrangements; technical and financial assistance; travel
10 training; training for parents of children with
11 developmental disabilities; training for parents with
12 developmental disabilities; vouchers; and transportation
13 services necessary to ensure delivery of services to
14 persons with developmental disabilities. Nothing in this
15 subdivision is intended to expand or authorize a new or
16 different service or support for any consumer unless that
17 service or support is contained in his or her individual
18 program plan.

19 (c) Notwithstanding subdivision (a) and (b), for any
20 organization or agency receiving federal financial
21 participation under the federal Developmental
22 Disabilities Assistance and Bill of Rights Act, as amended
23 “developmental disability” and “services for persons with
24 developmental disabilities” means such terms as defined
25 in the federal act to the extent required by federal law.

26 (d) “Consumer” means a person who has a disability
27 that meets the definition of developmental disability set
28 forth in subdivision (a).

29 (e) “Natural supports” means personal associations
30 and relationships typically developed in the community
31 that enhance the quality and security of life for people,
32 including, but not limited to, family relationships;
33 friendships reflecting the diversity of the neighborhood
34 and the community; associations with fellow students or
35 employees in regular classrooms and workplaces; and
36 associations developed through participation in clubs,
37 organizations, and other civic activities.

38 (f) “Circle of support” means a committed group of
39 community members, which may include family
40 members, meeting regularly with an individual with



1 developmental disabilities in order to share experiences,
2 promote autonomy and community involvement, and
3 assist the individual in establishing and maintaining
4 natural supports. Such a circle of support generally
5 includes a plurality of members who neither provide nor
6 receive services or supports for persons with
7 developmental disabilities and who do not receive
8 payment for participation in the circle of support.

9 (g) “Facilitation” means the use of modified or
10 adapted materials, special instructions, equipment, or
11 personal assistance by an individual, such as assistance
12 with communications, which will enable a consumer to
13 understand and participate to the maximum extent
14 possible in the decisions and choices which effect his or
15 her life.

16 (h) “Family support services” means services and
17 supports that are provided to a child with developmental
18 disabilities or his or her family and that contribute to the
19 ability of the family to reside together.

20 (i) “Voucher” means any authorized alternative form
21 of service delivery in which the consumer or family
22 member is provided with a payment, coupon, chit, or
23 other form of authorization which enables the consumer
24 or family member to choose his or her own service
25 provider.

26 (j) “Planning team” means the individual with
27 developmental disabilities, the parents or legally
28 appointed guardian of a minor consumer, or the legally
29 appointed conservator of an adult consumer, the
30 authorized representative, including those appointed
31 pursuant to Section 4590 and subdivision (e) of Section
32 4705, one or more regional center representatives,
33 including the designated regional center service
34 coordinator pursuant to subdivision (b) of Section 4640.7,
35 and any individual, including a service provider, invited
36 by the consumer, the parents or legally appointed
37 guardian of a minor consumer, or the legally appointed
38 conservator of an adult consumer, or the authorized
39 representative, including those appointed pursuant to
40 Section 4590 and subdivision (e) of Section 4705.

1 (k) “Stakeholder organizations” means statewide
2 organizations representing the interests of consumers,
3 family members, service providers, and statewide
4 advocacy organizations.

5 SEC. 2. Section 4541 of the Welfare and Institutions
6 Code is repealed.

7 SEC. 3. Section 4640 of the Welfare and Institutions
8 Code is amended to read:

9 4640. (a) Contracts between the department and
10 regional centers shall specify the service area and the
11 categories of persons that regional centers shall be
12 expected to serve and the services and supports to be
13 provided.

14 (b) In order to ensure uniformity in the application of
15 the definition of developmental disability contained in
16 this division, the Director of Developmental Services
17 shall, by March 1, 1977, issue regulations that delineate, by
18 diagnostic category and degree of disability, those
19 persons who are eligible for services and supports by
20 regional centers. In issuing the regulations, the director
21 shall invite and consider the views of regional center
22 contracting agencies, the state council, and persons with
23 a demonstrated and direct interest in developmental
24 disabilities.

25 SEC. 4. Section 4646 of the Welfare and Institutions
26 Code is amended to read:

27 4646. (a) It is the intent of the Legislature to ensure
28 that the individual program plan and provision of services
29 and supports by the regional center system is centered on
30 the individual and the family of the individual with
31 developmental disabilities and takes into account the
32 needs and preferences of the individual and the family,
33 where appropriate, as well as promoting community
34 integration, independent, productive, and normal lives,
35 and stable and healthy environments. It is the further
36 intent of the Legislature to ensure that the provision of
37 services to consumers and their families be effective in
38 meeting the goals stated in the individual program plan,
39 reflect the preferences and choices of the consumer, and
40 reflect the cost-effective use of public resources.

1 (b) The individual program plan is developed through
2 a process of individualized needs determination. The
3 individual with developmental disabilities and, where
4 appropriate, his or her parents, legal guardian or
5 conservator, or authorized representative, shall have the
6 opportunity to actively participate in the development of
7 the plan.

8 (c) An individual program plan shall be developed for
9 any person who, following intake and assessment, is found
10 to be eligible for regional center services. These plans
11 shall be completed within 60 days of the completion of the
12 assessment. At the time of intake, the regional center shall
13 inform the consumer and, where appropriate, his or her
14 parents, legal guardian or conservator, or authorized
15 representative, of the services available through the local
16 area board and the protection and advocacy agency
17 designated by the Governor pursuant to federal law, and
18 shall provide the address and telephone numbers of those
19 agencies.

20 (d) Individual program plans shall be prepared jointly
21 by the planning team. Decisions concerning the
22 consumer's goals, objectives, and services and supports
23 that will be included in the consumer's individual
24 program plan and purchased by the regional center or
25 obtained from generic agencies shall be made by
26 agreement between the regional center representative
27 and the consumer or, where appropriate, the parents,
28 legal guardian, conservator, or authorized representative
29 at the program plan meeting.

30 (e) Regional centers shall comply with the request of
31 a consumer, or where appropriate, the request of his or
32 her parents, legal guardian, or conservator, that a
33 designated representative receive written notice of all
34 meetings to develop or revise his or her individual
35 program plan and of all notices sent to the consumer
36 pursuant to Section 4710. The designated representative
37 may be a parent or family member.

38 (f) If a final agreement regarding the services and
39 supports to be provided to the consumer cannot be
40 reached at a program plan meeting, then a subsequent

1 program plan meeting shall be convened within 15 days,
2 or later at the request of the consumer or, when
3 appropriate, the parents, legal guardian, conservator, or
4 authorized representative or when agreed to by the
5 planning team. Additional program plan meetings may
6 be held with the agreement of the regional center
7 representative and the consumer or, where appropriate,
8 the parents, legal guardian, conservator, or authorized
9 representative.

10 (g) An authorized representative of the regional
11 center and the consumer or, where appropriate, his or
12 her parents, legal guardian, or conservator, shall sign the
13 individual program plan prior to its implementation. If
14 the consumer or, where appropriate, his or her parents,
15 legal guardian, or conservator, does not agree with all
16 components of the plan, they may indicate that
17 disagreement on the plan. Disagreement with specific
18 plan components shall not prohibit the implementation
19 of services and supports agreed to by the consumer or,
20 where appropriate, his or her parents, legal guardian, or
21 conservator. If the consumer or, where appropriate, his
22 or her parents, legal guardian, or conservator, does not
23 agree with the plan in whole or in part, he or she shall be
24 sent written notice of the fair hearing rights, as required
25 by Section 4701.

26 SEC. 5. Section 4646.5 of the Welfare and Institutions
27 Code is amended to read:

28 4646.5. (a) The planning process for the individual
29 program plan described in Section 4646 shall include all
30 of the following:

31 (1) Gathering information and conducting
32 assessments to determine the life goals, capabilities and
33 strengths, preferences, barriers, and concerns or
34 problems of the person with developmental disabilities.
35 For children with developmental disabilities, this process
36 should include a review of the strengths, preferences, and
37 needs of the child and the family unit as a whole.
38 Assessments shall be conducted by qualified individuals
39 and performed in natural environments whenever
40 possible. Information shall be taken from the consumer,

1 his or her parents and other family members, his or her
2 friends, advocates, providers of services and supports, and
3 other agencies. The assessment process shall reflect
4 awareness of, and sensitivity to, the lifestyle and cultural
5 background of the consumer and the family.

6 (2) A statement of goals, based on the needs,
7 preferences, and life choices of the individual with
8 developmental disabilities, and a statement of specific,
9 time-limited objectives for implementing the person's
10 goals and addressing his or her needs. These objectives
11 shall be stated in terms that allow measurement of
12 progress or monitoring of service delivery. These goals
13 and objectives should maximize opportunities for the
14 consumer to develop relationships, be part of community
15 life in the areas of community participation, housing,
16 work, school, and leisure, increase control over his or her
17 life, acquire increasingly positive roles in community life,
18 and develop competencies to help accomplish these
19 goals.

20 (3) When developing individual program plans for
21 children, regional centers shall be guided by the
22 principles, process, and services and support parameters
23 set forth in Section 4685.

24 (4) A schedule of the type and amount of services and
25 supports to be purchased by the regional center or
26 obtained from generic agencies or other resources in
27 order to achieve the individual program plan goals and
28 objectives, and identification of the provider or providers
29 of service responsible for attaining each objective,
30 including, but not limited to, vendors, contracted
31 providers, generic service agencies, and natural supports.
32 The plan shall specify the approximate scheduled start
33 date for services and supports and shall contain timelines
34 for actions necessary to begin services and supports,
35 including generic services.

36 (5) When agreed to by the consumer, the parents or
37 legally appointed guardian of a minor consumer, or the
38 legally appointed conservator of an adult consumer or the
39 authorized representative, including those appointed
40 pursuant to Section 4590 and subdivision (e) of Section

1 4705, the planning team shall review all prescription
2 medications taken by the consumer and the reasons for
3 the medications.

4 (6) A schedule of regular periodic review and
5 reevaluation to ascertain that planned services have been
6 provided, that objectives have been fulfilled within the
7 times specified, and that consumers and families are
8 satisfied with the individual program plan and its
9 implementation.

10 (b) For all active cases, individual program plans shall
11 be reviewed and modified by the planning team, through
12 the process described in Section 4646, as necessary, in
13 response to the person's achievement or changing needs,
14 and no less often than once every three years. If the
15 consumer or, where appropriate, the consumer's parents,
16 legal guardian, or conservator requests an individual
17 program plan review, the individual program shall be
18 reviewed within 30 days after the request is submitted.

19 (c) (1) The department, with the participation of
20 representatives of a statewide consumer organization,
21 the Association of Regional Center Agencies, an
22 organized labor organization representing service
23 coordination staff, and the Organization of Area Boards
24 shall prepare training material and a standard format and
25 instructions for the preparation of individual program
26 plans, which embodies an approach centered on the
27 person and family.

28 (2) Each regional center shall use the training
29 materials and format prepared by the department
30 pursuant to paragraph (1).

31 (3) The department shall annually review a random
32 sample of individual program plans at each regional
33 center to assure that these plans are being developed and
34 modified in compliance with Section 4646 and this
35 section.

36 SEC. 6. Section 4648 of the Welfare and Institutions
37 Code is amended to read:

38 4648. In order to achieve the stated objectives of a
39 consumer's individual program plan, the regional center

1 shall conduct activities including, but not limited to, all of
2 the following:

3 (a) Securing needed services and supports.

4 (1) It is the intent of the Legislature that services and
5 supports assist individuals with developmental disabilities
6 in achieving the greatest self-sufficiency possible and in
7 exercising personal choices. The regional center shall
8 secure services and supports that meet the needs of the
9 consumer, as determined in the consumer's individual
10 program plan, and within the context of the individual
11 program plan, the planning team shall give highest
12 preference to those services and supports which would
13 allow minors with developmental disabilities to live with
14 their families, adult persons with developmental
15 disabilities to live as independently as possible in the
16 community, and that allow all consumers to interact with
17 persons without disabilities in positive, meaningful ways.

18 (2) In implementing individual program plans,
19 regional centers, through the planning team, shall first
20 consider services and supports in natural community,
21 home, work, and recreational settings. Services and
22 supports shall be flexible and individually tailored to the
23 consumer and, where appropriate, his or her family.

24 (3) A regional center may, pursuant to vendorization
25 or a contract, purchase services or supports for a
26 consumer from any individual or agency which the
27 regional center and consumer or, where appropriate, his
28 or her parents, legal guardian, or conservator, or
29 authorized representatives, determines will best
30 accomplish all or any part of that consumer's program
31 plan.

32 (A) Vendorization or contracting is the process for
33 identification, selection, and utilization of service
34 vendors or contractors, based on the qualifications and
35 other requirements necessary in order to provide the
36 service.

37 (B) A regional center may reimburse an individual or
38 agency for services or supports provided to a regional
39 center consumer if the individual or agency has a rate of
40 payment for vendored or contracted services established

1 by the department, pursuant to this division, and is
2 providing services pursuant to an emergency
3 vendorization or has completed the vendorization
4 procedures or has entered into a contract with the
5 regional center and continues to comply with the
6 vendorization or contracting requirements. The director
7 shall adopt regulations governing the vendorization
8 process to be utilized by the department, regional
9 centers, vendors and the individual or agency requesting
10 vendorization.

11 (C) Regulations shall include, but not be limited to:
12 the vendor application process, and the basis for
13 accepting or denying an application; the qualification and
14 requirements for each category of services that may be
15 provided to a regional center consumer through a
16 vendor; requirements for emergency vendorization;
17 procedures for termination of vendorization; the
18 procedure for an individual or an agency to appeal any
19 vendorization decision made by the department or
20 regional center.

21 (D) A regional center may vendorize a licensed
22 facility for exclusive services to persons with
23 developmental disabilities at a capacity equal to or less
24 than the facility's licensed capacity. A facility already
25 licensed on January 1, 1999, shall continue to be
26 vendorized at their full licensed capacity until the facility
27 agrees to vendorization at a reduced capacity.

28 (4) Notwithstanding subparagraph (B), a regional
29 center may contract or issue a voucher for services and
30 supports provided to a consumer or family at a cost not to
31 exceed the maximum rate of payment for that service or
32 support established by the department. If a rate has not
33 been established by the department, the regional center
34 may, for an interim period, contract for a specified service
35 or support with, and establish a rate of payment for, any
36 provider of the service or support necessary to
37 implement a consumer's individual program plan.
38 Contracts may be negotiated for a period of up to three
39 years, with annual review and subject to the availability
40 of funds.

1 (5) In order to ensure the maximum flexibility and
2 availability of appropriate services and supports for
3 persons with developmental disabilities, the department
4 shall establish and maintain an equitable system of
5 payment to providers of services and supports identified
6 as necessary to the implementation of a consumers'
7 individual program plan. The system of payment shall
8 include provision for a rate to ensure that the provider
9 can meet the special needs of consumers and provide
10 quality services and supports in the least restrictive
11 setting as required by law.

12 (6) The regional center and the consumer, or where
13 appropriate, his or her parents, legal guardian,
14 conservator, or authorized representative, including
15 those appointed pursuant to Section 4590 or subdivision
16 (e) of Section 4705, shall, pursuant to the individual
17 program plan, consider all of the following when
18 selecting a provider of consumer services and supports:

19 (A) A provider's ability to deliver quality services or
20 supports which can accomplish all or part of the
21 consumer's individual program plan.

22 (B) A provider's success in achieving the objectives set
23 forth in the individual program plan.

24 (C) Where appropriate, the existence of licensing,
25 accreditation, or professional certification.

26 (D) The cost of providing services or supports of
27 comparable quality by different providers, if available.

28 (E) The consumer's or, where appropriate, the
29 parents, legal guardian, or conservator of a consumer's
30 choice of providers.

31 (7) No service or support provided by any agency or
32 individual shall be continued unless the consumer or,
33 where appropriate, his or her parents, legal guardian, or
34 conservator, or authorized representative, including
35 those appointed pursuant to Section 4590 or subdivision
36 (e) of Section 4705, is satisfied and the regional center and
37 the consumer or, when appropriate, the person's parents
38 or legal guardian or conservator agree that planned
39 services and supports have been provided, and
40 reasonable progress toward objectives have been made.

1 (8) Regional center funds shall not be used to supplant
2 the budget of any agency which has a legal responsibility
3 to serve all members of the general public and is
4 receiving public funds for providing those services.

5 (9) (A) A regional center may, directly or through an
6 agency acting on behalf of the center, provide placement
7 in, purchase of, or follow-along services to persons with
8 developmental disabilities in, appropriate community
9 living arrangements, including, but not limited to,
10 support service for consumers in homes they own or lease,
11 foster family placements, health care facilities, and
12 licensed community care facilities. In considering
13 appropriate placement alternatives for children with
14 developmental disabilities, approval by the child's parent
15 or guardian shall be obtained before placement is made.

16 (B) Each person with developmental disabilities
17 placed by the regional center in a community living
18 arrangement shall have the rights specified in this
19 division. These rights shall be brought to the person's
20 attention by any means necessary to reasonably
21 communicate these rights to each resident ~~or the director~~
22 ~~may designate by regulation~~, provided that, at a
23 minimum, the Director of Developmental Services
24 prepare, provide, and require to be clearly posted in all
25 residential facilities and day programs a poster using
26 simplified language and pictures that is designed to be
27 more understandable by persons with cognitive
28 disabilities and that the rights information shall also be
29 available through the regional center to each residential
30 facility and day program in alternative formats,
31 including, but not limited to, other languages, braille, and
32 audio tapes, when necessary to meet the communication
33 needs of consumers.

34 (C) Consumers are eligible to receive supplemental
35 services including, but not limited to, additional staffing,
36 pursuant to the process described in subdivision (d) of
37 Section 4646. Necessary additional staffing that is not
38 specifically included in the rates paid to the service
39 provider may be purchased by the regional center if the
40 additional staff are in excess of the amount required by

1 regulation and the individual's planning team determines
2 the additional services are consistent with the provisions
3 of the individual program plan. Additional staff should be
4 periodically reviewed by the planning team for
5 consistency with the individual program plan objectives
6 in order to determine if continued use of the additional
7 staff is necessary and appropriate and if the service is
8 producing outcomes consistent with the individual
9 program plan. Regional centers shall monitor programs
10 to ensure that the additional staff is being provided and
11 utilized appropriately.

12 (10) Emergency and crisis intervention services
13 including, but not limited to, mental health services and
14 behavior modification services, may be provided, as
15 needed, to maintain persons with developmental
16 disabilities in the living arrangement of their own choice.
17 Crisis services shall first be provided without disrupting
18 a person's living arrangement. If crisis intervention
19 services are unsuccessful, emergency housing shall be
20 available in the person's home community. If dislocation
21 cannot be avoided, every effort shall be made to return
22 the person to his or her living arrangement of choice, with
23 all necessary supports, as soon as possible.

24 (11) Among other service and support options,
25 planning teams shall consider the use of paid roommates
26 or neighbors, personal assistance, technical and financial
27 assistance, and all other service and support options
28 which would result in greater self-sufficiency for the
29 consumer and cost-effectiveness to the state.

30 (12) When facilitation as specified in an individual
31 program plan requires the services of an individual, the
32 facilitator shall be of the consumer's choosing.

33 (13) The community support may be provided to assist
34 individuals with developmental disabilities to fully
35 participate in community and civic life, including, but not
36 limited to, programs, services, work opportunities,
37 business, and activities available to persons without
38 disabilities. This facilitation shall include, but not be
39 limited to, any of the following:

1 (A) Outreach and education to programs and services
2 within the community.

3 (B) Direct support to individuals which would enable
4 them to more fully participate in their community.

5 (C) Developing unpaid natural supports when
6 possible.

7 (14) Other services and supports may be provided as
8 set forth in Sections 4685, 4686, 4687, 4688, and 4689, when
9 necessary.

10 (b) (1) Advocacy for, and protection of, the civil,
11 legal, and service rights of persons with developmental
12 disabilities as established in this division.

13 (2) Whenever the advocacy efforts of a regional
14 center to secure or protect the civil, legal, or service
15 rights of any of its consumers prove ineffective, the
16 regional center or the person with developmental
17 disabilities or his or her parents, legal guardian, or other
18 representative may request the area board to initiate
19 action under the provisions defining area board advocacy
20 functions established in this division.

21 (c) The regional center may assist consumers and
22 families directly, or through a provider, in identifying and
23 building circles of support within the community.

24 (d) In order to increase the quality of community
25 services and protect consumers, the regional center shall,
26 when appropriate, take either of the following actions:

27 (1) Identify services and supports that are ineffective
28 or of poor quality and provide or secure consultation,
29 training, or technical assistance services for any agency or
30 individual provider to assist that agency or individual
31 provider in upgrading the quality of services or supports.

32 (2) Identify providers of services or supports that may
33 not be in compliance with local, state, and federal statutes
34 and regulations and notify the appropriate licensing or
35 regulatory authority, or request the area board to
36 investigate the possible noncompliance.

37 (e) When necessary to expand the availability of
38 needed services of good quality, a regional center may
39 take actions that include, but are not limited to, the
40 following:

(1) Soliciting an individual or agency by requests for proposals or other means, to provide needed services or supports not presently available.

(2) Requesting funds from the Program Development Fund, pursuant to Section 4677, or community placement plan funds designated from that fund, to reimburse the startup costs needed to initiate a new program of services and supports.

(3) Using creative and innovative service delivery models, including, but not limited to, natural supports.

(f) Except in emergency situations, a regional center shall not provide direct treatment and therapeutic services, but shall utilize appropriate public and private community agencies and service providers to obtain those services for its consumers.

(g) Where there are identified gaps in the system of services and supports or where there are identified consumers for whom no provider will provide services and supports contained in his or her individual program plan, the department may provide the services and supports directly.

SEC. 7. Section 4648.1 of the Welfare and Institutions Code is amended to read:

4648.1. (a) The State Department of Developmental Services and regional centers may monitor services and supports purchased for regional center consumers with or without prior notice. Not less than one monitoring visit to a licensed community care facility or family home agency home each year shall be unannounced. The department may conduct fiscal reviews and audits of the service providers' records.

(b) Department and regional center staff involved in monitoring or auditing services provided to the regional centers' consumers by a service provider shall have access to the provider's grounds, buildings, and service program, and to all related records, including books, papers, computerized data, accounting records, and related documentation. All persons connected with the service provider's program, including, but not limited to, program administrators, staff, consultants, and

1 accountants, shall provide information and access to
2 facilities as required by the department or regional
3 center.

4 (c) The department, in cooperation with regional
5 centers, shall ensure that all providers of services and
6 supports purchased by regional centers for their
7 consumers are informed of all of the following:

8 (1) The provisions of this section.

9 (2) The responsibility of providers to comply with laws
10 and regulations governing both their service program
11 and the provision of services and supports to people with
12 developmental disabilities.

13 (3) The responsibility of providers to comply with
14 conditions of any contract or agreement between the
15 regional center and the provider, and between the
16 provider and the department.

17 (4) The rights of providers established in regulations
18 adopted pursuant to Sections 4648.2, 4748, and 4780.5, to
19 appeal actions taken by regional centers or the
20 department as a result of their monitoring and auditing
21 findings.

22 (d) A regional center may terminate payments for
23 services, and may terminate its contract or authorization
24 for the purchase of consumer services if it determines that
25 the provider has not complied with provisions of its
26 contract or authorization with the regional center or with
27 applicable state laws and regulations. When terminating
28 payments for services or its contract or authorization for
29 the purchase of consumer services, a regional center shall
30 make reasonable efforts to avoid unnecessary disruptions
31 of consumer services.

32 (e) A regional center or the department may recover
33 from the provider funds paid for services when the
34 department or the regional center determines that either
35 of the following has occurred:

36 (1) The services were not provided in accordance with
37 the regional center's contract or authorization with the
38 provider, or with applicable state laws or regulations.

39 (2) The rate paid is based on inaccurate data
40 submitted by the provider on a provider cost statement.

1 Any funds so recovered shall be remitted to the
2 department.

3 (f) Any evidence of suspected licensing violations
4 found by department or regional center personnel shall
5 be reported immediately to the appropriate state
6 licensing agency.

7 (g) Regional centers may establish volunteer teams,
8 made up of consumers, parents, other family members,
9 and advocates to conduct the monitoring activities
10 described in this section.

11 (h) In meeting its responsibility to monitor
12 community living arrangements for persons with
13 developmental disabilities, including, but not limited to,
14 licensed residential facilities, family home agencies, and
15 supported or independent living arrangements, a
16 regional center shall utilize the “Looking at Service
17 Quality-Provider’s Handbook” developed by the
18 department.

19 SEC. 8. Section 4670 of the Welfare and Institutions
20 Code is amended to read:

21 4670. The Legislature finds that there is a shortage of
22 service and support providers to meet the
23 comprehensive needs of persons with developmental
24 disabilities throughout the state.

25 In order to assure the development and necessary
26 support for a comprehensive network of providers of
27 good quality, in every area of the state, in an orderly and
28 economic manner, the following procedures are
29 established.

30 SEC. 9. Section 4675 of the Welfare and Institutions
31 Code is amended to read:

32 4675. The state plan established in this division shall
33 be a method used for determining, in an orderly way, the
34 services and supports that shall be developed to address
35 unavailable or emerging service and support needs. The
36 state plan shall also state the objectives of these services
37 and supports, amounts and sources of required funding,
38 priorities for development, timing, agencies responsible
39 for implementation, and procedures for evaluation.

1 SEC. 10. Section 4676 of the Welfare and Institutions
2 Code is amended to read:

3 4676. Prior to making an appropriation or allocating
4 any state or federal funds for new or major expansions of
5 services and supports for persons with developmental
6 disabilities, the state plan shall be reviewed to determine
7 if the proposed expenditure is consistent with the
8 priorities approved in the plan.

9 If any expenditure of such funds for new or major
10 expansions of services and supports is proposed by any
11 agency that does not conform to the priorities approved
12 in the state plan, the state council shall review and
13 publicly comment on such proposed expenditure.

14 SEC. 11. Section 4677 of the Welfare and Institutions
15 Code is amended to read:

16 4677. (a) All parental fees collected by or for regional
17 centers shall be remitted to the State Treasury to be
18 deposited in the Developmental Disabilities Program
19 Development Fund, which is hereby created and
20 hereinafter called the Program Development Fund. The
21 purpose of the Program Development Fund shall be to
22 provide resources needed to initiate new services and
23 supports and to test new strategies in the delivery of
24 services and supports, consistent with approved priorities
25 for program development in the state plan. If moneys
26 from the Program Development Fund are used to initiate
27 new services and supports in a specific regional center
28 catchment area, the funded proposals shall reflect the
29 regional center performance contract goals and
30 objectives. If moneys in the Program Development Fund
31 are to be used to provide startup costs for new services
32 and supports intended to be permanent within a specific
33 regional center catchment area, the department and the
34 regional center shall, prior to the awarding of a grant of
35 these moneys, review the proposal to ensure its ongoing
36 fiscal viability once the moneys have been expended.

37 In no event shall an allocation from the Program
38 Development Fund be granted for more than 24 months.

39 (b) The State Council on Developmental Disabilities
40 shall, not less than once every three years, request from

1 all regional centers information on the unavailable and
2 emerging services and supports needed by consumers
3 and families within its catchment area. A regional center
4 shall also submit this information to the appropriate area
5 board and the area board shall submit comments on the
6 regional center information to the State Council on
7 Developmental Disabilities. Based on the information
8 provided by the regional centers, area boards, and other
9 agencies, the State Council on Developmental
10 Disabilities shall develop an assessment of the level of
11 need for new community services and support, provide
12 a copy of that assessment to the appropriate legislative
13 policy and budget committees, and make that assessment
14 available to the public. This needs assessment shall be
15 included in the state plan. The State Council on
16 Developmental Disabilities, in consultation with the
17 State Department of Developmental Services, shall make
18 a recommendation to the Department of Finance as to
19 the level of funding for program development to be
20 included in the Governor's Budget, based upon this needs
21 assessment.

22 (c) Parental fee schedules shall be evaluated pursuant
23 to Section 4784 and adjusted annually by the department,
24 with the approval of the state council. Fees for
25 out-of-home care shall bear an equitable relationship to
26 the cost of the care and the ability of the family to pay.

27 (d) In addition to parental fees and General Fund
28 appropriations, the Program Development Fund may be
29 augmented by federal funds available to the state for
30 program development purposes, when these funds are
31 allotted to the Program Development Fund in the state
32 plan. The Program Development Fund is hereby
33 appropriated to the department, and subject to any
34 allocations which may be made in the annual Budget Act.
35 In no event shall any of these funds revert to the General
36 Fund.

37 (e) The department may allocate funds from the
38 Program Development Fund for any legal purpose,
39 provided that requests for proposals and allocations are
40 approved by the state council in consultation with the

1 department, and are consistent with the priorities for
2 program development in the state plan. Allocations from
3 the Program Development Fund shall take into
4 consideration the following factors:

5 (1) The future fiscal impact of the allocations on other
6 state-supported services and supports for persons with
7 developmental disabilities.

8 (2) The unavailable and emerging needs assessment
9 described in subdivision (b).

10 (3) The inclusion of an outcome-based assessment of
11 the services and supports being funded.

12 (f) The state council shall annually provide the
13 Legislature with information about expenditures from
14 the Program Development Fund made during the
15 previous year, including, but not limited to, all of the
16 following:

17 (1) A description of each project or service and
18 support funded.

19 (2) Each agency or organization to whom moneys
20 were allocated and the amount of moneys provided to
21 each agency or organization.

22 (3) The region of the state in which each project or
23 service and support will be developed.

24 (4) How the project or service and support meet the
25 goals of the state plan and, where appropriate, the
26 regional center performance contract goals and
27 objectives.

28 (5) The level of community support demonstrated for
29 the proposal.

30 (6) A description of the evaluation process for the
31 proposal, including the method by which the results will
32 be determined.

33 (g) Under no circumstances shall the deposit of
34 federal moneys into the Program Development Fund be
35 construed as requiring the State Department of
36 Developmental Services to comply with a definition of
37 “developmental disabilities” and “services for persons
38 with developmental disabilities” other than as specified
39 in subdivisions (a) and (b) of Section 4512 for the
40 purposes of determining eligibility for developmental

1 services or for allocating parental fees and state general
2 funds deposited in the Program Development Fund.

3 SEC. 12. The Legislature finds and declares all of the
4 following:

5 (a) Residential services provided by licensed
6 community care facilities serving persons with
7 developmental disabilities are an essential element in
8 California's system of community care.

9 (b) The Alternative Residential Model (ARM)
10 currently used to reimburse services provided by these
11 facilities has not been updated since 1988, and certain
12 changes are required to encourage optimum consumer
13 growth and development.

14 (c) ARM must be updated in order to do all of the
15 following:

16 (1) Focus more on individual consumer services than
17 on facility classification.

18 (2) Allow additional flexibility in the delivery and
19 reimbursement of consumer services.

20 (3) Promote greater integration, independence,
21 productivity, and satisfaction among consumers.

22 (4) Make changes to the model without creating major
23 disruptions for affected facilities or consumers.

24 SEC. 13. Section 4681.1 of the Welfare and Institutions
25 Code is amended to read:

26 4681.1. (a) The department shall adopt regulations
27 that specify rates for community care facilities serving
28 persons with developmental disabilities. These rates shall
29 be calculated on the basis of a cost model designed by the
30 department which ensures that aggregate facility
31 payments support the provision of services to each person
32 in accordance with his or her individual program plan
33 and applicable program requirements. The cost model
34 shall reflect cost elements that shall include, but are not
35 limited to, all of the following:

36 (1) "Basic living needs" include utilities, furnishings,
37 food, supplies, incidental transportation, housekeeping,
38 personal care items, and other items necessary to ensure
39 a quality environment for persons with developmental
40 disabilities. The amount identified for the basic living

1 needs element of the rate shall be calculated each year as
2 the average projected cost of these items in an
3 economically and efficiently operated community care
4 facility.

5 (2) “Direct care” includes salaries, wages, benefits,
6 and other expenses necessary to supervise or support the
7 person’s functioning in the areas of self-care and daily
8 living skills, physical coordination and mobility, and
9 behavioral self-control. The amount identified for direct
10 care shall be calculated as the average projected cost of
11 providing the level of service required to meet each
12 person’s functional needs in an economically and
13 efficiently operated community care facility. The direct
14 care portion of the rate shall reflect specific service levels
15 defined by the department on the basis of relative
16 resident need and the individual program plan.

17 (3) “Special services” include specialized training,
18 treatment, supervision, or other services which a person’s
19 individual program plan requires to be provided by the
20 residential facility in addition to the direct care provided
21 under paragraph (2). The amount identified for special
22 services shall be calculated for each individual based on
23 the additional services specified in the person’s individual
24 program plan and the prevailing rates paid for similar
25 services in the area. The special services portion of the
26 rate shall reflect a negotiated agreement between the
27 facility and the regional center in accordance with
28 Section 4648.

29 (4) “Indirect costs” include managerial personnel,
30 facility operation, maintenance and repair, other
31 nondirect care, employee benefits, contracts, training,
32 travel, licenses, taxes, interest, insurance, depreciation,
33 and general administrative expenses. The amount
34 identified for indirect costs shall be calculated each year
35 as the average projected cost for these expenses in an
36 economically and efficiently operated community care
37 facility.

38 (5) “Property costs” include mortgages, leases, rent,
39 taxes, capital or leasehold improvements, depreciation,
40 and other expenses related to the physical structure. The

1 amount identified for property costs shall be based on the
2 fair rental value of a model facility which is adequately
3 designed, constructed, and maintained to meet the needs
4 of persons with developmental disabilities. The amount
5 identified for property costs shall be calculated each year
6 as the average projected fair rental value of an
7 economically and efficiently operated community care
8 facility.

9 (b) The cost model shall take into account factors
10 which include, but are not limited to, all of the following:

11 (1) Facility size, as defined by the department on the
12 basis of the number of facility beds licensed by the State
13 Department of Social Services and vendorized by the
14 regional center.

15 (2) Specific geographic areas, as defined by the
16 department on the basis of cost of living and other
17 pertinent economic indicators.

18 (3) Common levels of direct care, as defined by the
19 department on the basis of services specific to an
20 identifiable group of persons as determined through the
21 individual program plan.

22 (4) Positive outcomes, as defined by the department
23 on the basis of increased integration, independence, and
24 productivity at the aggregate facility and individual
25 consumer level.

26 (5) Owner-operated and staff-operated
27 reimbursement which shall, not differ for facilities that
28 are required to comply with the same program
29 requirements.

30 (c) The rates established for individual community
31 care facilities serving persons with developmental
32 disabilities shall reflect all of the model cost elements and
33 rate development factors described in this section. The
34 identified cost model elements shall be updated annually
35 as necessary to maintain relative facility purchasing
36 power. The entire cost model shall be rebased every five
37 years to ensure continued correlation with program
38 requirements and the cost experience of economically
39 and efficiently operated facilities. The process used to

1 update the cost model elements shall address variables
2 that include, but are not limited to, all of the following:

- 3 (1) Economic trends in California.
- 4 (2) New state or federal program requirements.
- 5 (3) Changes in the state or federal minimum wage.
- 6 (4) Increases in fees, taxes, or other business costs.
- 7 (5) Increases in federal supplemental security
8 income/state supplementary program for the aged,
9 blind, and disabled payments.

10 (d) Rates established for developmentally disabled
11 persons who are also dually diagnosed with a mental
12 disorder may be fixed at a higher rate. The department
13 shall work with the State Department of Mental Health
14 to establish criteria upon which higher rates may be fixed
15 pursuant to this subdivision. The higher rate for
16 developmentally disabled persons who are also dually
17 diagnosed with a mental disorder may be paid when
18 requested by the director of the regional center and
19 approved by the Director of Developmental Services.

20 (e) By January 1, 2000, the department shall prepare
21 proposed regulations to implement the changes outlined
22 in this section. The department may use a private firm to
23 assist in the development of these changes and shall
24 confer with consumers, providers, and other interested
25 parties concerning the proposed regulations. By May 15,
26 2000, and each year thereafter, the department shall
27 provide the Legislature with an annual community care
28 facility rate study, which includes the draft amendments
29 to the regulations required to update or rebase the cost
30 model as described in subdivision (c). By July 1, 2000, and
31 each year thereafter, the department shall adopt
32 emergency regulations which establish the annual rates
33 for community care facilities serving persons with
34 developmental disabilities for each fiscal year.

35 (f) During the first year of operation under the revised
36 rate model, individual facilities shall be held harmless for
37 any reduction in aggregate facility payments caused
38 solely by the change in reimbursement methodology.

39 SEC. 14. Section 4685 of the Welfare and Institutions
40 Code is amended to read:

1 4685. (a) Consistent with state and federal law, the
2 Legislature finds and declares that children with
3 developmental disabilities most often have greater
4 opportunities for educational and social growth when
5 they live with their families. The Legislature further finds
6 and declares that the cost of providing necessary services
7 and supports which enable a child with developmental
8 disabilities to live at home is typically equal to or lower
9 than the cost of providing out-of-home placement. The
10 Legislature places a high priority on providing
11 opportunities for children with developmental
12 disabilities to live with their families, when living at home
13 is the preferred objective in the child's individual
14 program plan.

15 (b) It is the intent of the Legislature that regional
16 centers provide or secure family support services that do
17 all of the following:

18 (1) Respect and support the decisionmaking authority
19 of the family.

20 (2) Be flexible and creative in meeting the unique and
21 individual needs of families as they evolve over time.

22 (3) Recognize and build on family strengths, natural
23 supports, and existing community resources.

24 (4) Be designed to meet the cultural preferences,
25 values, and lifestyles of families.

26 (5) Focus on the entire family and promote the
27 inclusion of children with disabilities in all aspects of
28 school and community.

29 (c) In order to provide opportunities for children to
30 live with their families, the following procedures shall be
31 adopted:

32 (1) The department and regional centers shall give a
33 very high priority to the development and expansion of
34 services and supports designed to assist families that are
35 caring for their children at home, when that is the
36 preferred objective in the individual program plan. This
37 assistance may include, but is not limited to specialized
38 medical and dental care, special training for parents,
39 infant stimulation programs, respite for parents,
40 homemaker services, camping, day care, short-term

1 out-of-home care, child care, counseling, mental health
2 services, behavior modification programs, special
3 adaptive equipment such as wheelchairs, hospital beds,
4 communication devices, and other necessary appliances
5 and supplies, and advocacy to assist persons in securing
6 income maintenance, educational services, and other
7 benefits to which they are entitled.

8 (2) When children with developmental disabilities
9 live with their families, the individual program plan shall
10 include a family plan component which describes those
11 services and supports necessary to successfully maintain
12 the child at home. Regional centers shall consider every
13 possible way to assist families in maintaining their
14 children at home, when living at home will be in the best
15 interest of the child, before considering out-of-home
16 placement alternatives. When the regional center first
17 becomes aware that a family may consider an
18 out-of-home placement, or is in need of additional
19 specialized services to assist in caring for the child in the
20 home, the regional center shall meet with the family to
21 discuss the situation and the family's current needs, solicit
22 from the family what supports would be necessary to
23 maintain the child in the home, and utilize creative and
24 innovative ways of meeting the family's needs and
25 providing adequate supports to keep the family together,
26 if possible.

27 (3) To ensure that these services and supports are
28 provided in the most cost-effective and beneficial
29 manner, regional centers may utilize innovative
30 service-delivery mechanisms, including, but not limited
31 to, vouchers; alternative respite options such as foster
32 families, vacant community facility beds, crisis child care
33 facilities; and alternative child care options such as
34 supplemental support to generic child care facilities and
35 parent child care cooperatives.

36 (4) If the parent of any child receiving services and
37 supports from a regional center believes that the regional
38 center is not offering adequate assistance to enable the
39 family to keep the child at home, the parent may initiate
40 a request for fair hearing as established in this division. A



1 family shall not be required to start a placement process
2 or to commit to placing a child in order to receive
3 requested services.

4 (5) Nothing in this section shall be construed to
5 encourage the continued residency of adult children in
6 the home of their parents when that residency is not in
7 the best interests of the person.

8 (6) When purchasing or providing a voucher for day
9 care services for parents who are caring for children at
10 home, the regional center may pay only the cost of the
11 day care service that exceeds the cost of providing day
12 care services to a child without disabilities. The regional
13 center may pay in excess of this amount when a family can
14 demonstrate a financial need and when doing so will
15 enable the child to remain in the family home.

16 (7) A regional center may purchase or provide a
17 voucher for diapers for children three years of age or
18 older. A regional center may purchase or provide
19 vouchers for diapers under three years of age when a
20 family can demonstrate a financial need and when doing
21 so will enable the child to remain in the family home.

22 SEC. 15. Section 4685.1 is added to the Welfare and
23 Institutions Code, to read:

24 4685.1. (a) When a minor child requires a living
25 arrangement outside of the family home, as determined
26 in the individual program plan developed pursuant to
27 Section 4646 and Section 4648, the regional center shall
28 make every effort to secure a living arrangement in
29 reasonably close proximity to the family home.

30 (b) When the parents or guardian of a minor child
31 requests that an out-of-home living arrangement for a
32 minor child be in close proximity to the family home, and
33 when such a living arrangement cannot be secured by the
34 regional center, the regional center shall include with the
35 individual program plan a written statement of its efforts
36 to locate, develop, or adapt appropriate services and
37 supports in a living arrangement within close proximity
38 to the family home and what steps will be taken by the
39 regional center to develop the services and supports
40 necessary to return the child to the family home or within

1 close proximity of the family home. This statement shall
2 be updated every six months and a copy shall be
3 forwarded to the parents or guardians of the minor and
4 to the director of the department.

5 (c) For the purpose of this section, “close proximity”
6 means within the regional center catchment area or
7 within two hours of the family home, whichever is less.

8 SEC. 16. Section 4685.2 is added to the Welfare and
9 Institutions Code, to read:

10 4685.2. (a) The Legislature finds and declares that
11 for some adults with developmental disabilities, living in
12 their family home is the preferred objective in the
13 consumer’s individual program plan.

14 (b) A regional center may provide or secure services
15 and supports, *including services and supports as defined*
16 *in subdivision (b) of Section 4512*, for adults choosing to
17 live in their family’s home that do all of the following:

18 (1) Respect and support the decisionmaking of the
19 adult consumer.

20 (2) Be flexible and creative in meeting the unique
21 needs of the adult consumer and his or her family as they
22 evolve over time.

23 (3) Recognize and build on family strengths, natural
24 supports, and existing community resources.

25 (4) Be designated to meet the cultural preferences,
26 values, and lifestyles of the adult consumer and his or her
27 family.

28 (5) Focus on enabling the adult consumer to achieve
29 the most independent, productive, and normal life
30 possible, foster his or her developmental potential, and
31 promote the integration of adults with disabilities in
32 community life.

33 (c) The range of services and supports available to an
34 adult consumer living in his or her family’s home shall
35 include, but are not limited to, all of the following:

36 (1) Assessment of consumer needs.

37 (2) Facilitating circles of support to encourage the
38 development of natural supports in the community.

39 (3) Training in independent living skills such as
40 shopping, cooking, and money management.

1 (4) Advocacy and self-advocacy facilitation.

2 (5) Development of employment goals.

3 (6) Social, behavioral, and daily living skills training
4 and support.

5 (7) Securing and maintaining adaptive equipment
6 and supplies.

7 (8) Training and hiring individuals to provide
8 personal care and other assistance.

9 (9) Twenty-four hour emergency response systems.

10 (10) Providing respite and emergency relief and
11 facilitating community participation.

12 (d) Services and supports may be provided to an adult
13 consumer living together with his or her family when
14 those services and supports are the choice of the adult
15 consumer, provided by a vendored agency or individual
16 who is not a family member residing with a consumer,
17 and will accomplish the objectives of the individual
18 program plan.

19 SEC. 17. Section 4685.5 is added to the Welfare and
20 Institutions Code, to read:

21 4685.5. (a) Notwithstanding any other provision of
22 law, commencing January 1, 1999, the department shall
23 conduct a three-year pilot project under which funds
24 shall be allocated for local self-determination pilot
25 programs that will enhance the ability of a consumer and
26 his or her family to control the decisions and resources
27 required to meet all or some of the objectives in his or her
28 individual program plan.

29 (b) Local self-determination pilot programs funded
30 pursuant to this section may include, but not be limited
31 to, all of the following:

32 (1) Programs that provide for consumer and family
33 control over which services best meet their needs and the
34 objectives in the individual program plan.

35 (2) Programs that provide allowances or subsidies to
36 consumers and their families.

37 (3) Programs providing for the use of debit cards.

38 (4) Programs that provide for the utilization of parent
39 vendors, direct pay options, individual budgets for the

1 procurement of services and supports, alternative case
2 management, and vouchers.

3 (c) The department shall allocate funds for pilot
4 programs in three regional center catchment areas and
5 shall, to the extent possible, test a variety of mechanisms
6 outlined in subdivision (b).

7 (d) The department shall develop and issue a request
8 for proposals soliciting regional center participation in
9 the pilot program. Consumers, families, regional centers,
10 advocates, and service providers shall be consulted
11 during the development of the request for proposal and
12 selection of the pilot areas.

13 (e) Each area receiving funding under this section
14 shall demonstrate joint regional center and area board
15 support for the local self-determination pilot program,
16 and shall establish a local advisory committee, appointed
17 jointly by the regional center and area board, made up of
18 consumers, family members, advocates, and community
19 leaders and that shall reflect the multicultural diversity
20 and geographic profile of the catchment area. The local
21 advisory committee shall review the development and
22 ongoing progress of the local self-determination pilot
23 program and may make ongoing recommendations for
24 improvement to the regional center. By September 1,
25 2000, the local advisory committee shall submit to the
26 department recommendations for the continuation and
27 expansion of the program.

28 (f) The department shall issue a report to the
29 Legislature no later than January 1, 2001, on the status of
30 each pilot program funded by this section and
31 recommendations with respect to continuation and
32 expansion.

33 (g) From funds unexpended by regional centers
34 during the 1997–98 fiscal year that, after reversion, are
35 available to the department for reallocation, pursuant to
36 Item 4300-490-001 of the Budget Act of 1997, the first
37 seven hundred fifty thousand dollars (\$750,000) shall be
38 allocated for purposes of implementing this section.

39 (h) This section shall remain in effect only until
40 January 1, 2002, and as of that date is repealed, unless a

1 later enacted statute, that becomes effective on or before
2 January 1, 2002, extends or deletes that date.

3 SEC. 18. Section 4696.1 of the Welfare and Institutions
4 Code is repealed:

5 SEC. 19. Section 4696.1 is added to the Welfare and
6 Institutions Code, to read:

7 4696.1. (a) The Legislature finds and declares that
8 improved cooperative efforts between regional centers
9 and county mental health agencies are necessary in order
10 to achieve each of the following:

11 (1) Increasing leadership, communication, and
12 organizational effectiveness between regional centers
13 and county mental health agencies.

14 (2) Decreasing costs and minimizing fiscal risk in
15 serving persons who are dually diagnosed with mental
16 illness and developmental disabilities.

17 (3) Ensuring continuity of services.

18 (4) Improving the quality of mental health outcomes
19 for persons who are dually diagnosed.

20 (5) Optimizing the utilization of agency resources by
21 building on the strengths of each organization.

22 (b) In order to achieve the outcomes specified in
23 subdivision (a), each regional center and county mental
24 health agency shall identify a staff liaison to do all of the
25 following:

26 (1) Coordinate service activity between the two
27 agencies.

28 (2) Identify dually diagnosed consumers of mutual
29 concern.

30 (3) Conduct problem resolution for those consumers
31 serviced by both systems.

32 (c) Regional centers and county mental health
33 agencies shall collaborate on developing a general plan
34 for crisis intervention for persons served by both systems.
35 The plan shall include after-hours emergency response
36 systems, interagency notification guidelines, and
37 followup protocols.

38 (d) Each dually diagnosed consumer shall be the
39 subject of a case conference conducted jointly by both
40 regional center staff and county mental health as soon as

1 possible after admission into a county operated or
2 contracted acute, inpatient mental health facility. The
3 case conference shall confirm the diagnosis and the
4 treatment plan.

5 (e) Discharge planning for dually diagnosed
6 consumers admitted to a mental health inpatient facility
7 shall be conducted collaboratively by both the regional
8 center and the local mental health agency and shall
9 commence as soon as possible or as deemed appropriate
10 by the treatment staff. The discharge plan shall include
11 subsequent treatment needs and the agency responsible
12 for those services.

13 (f) Regional center staff and county mental health
14 staff shall collaborate to plan and provide training to
15 community service providers, including day programs,
16 residential facilities, and intermediate care facilities,
17 regarding effective services to persons who are dually
18 diagnosed. This training shall include crisis prevention
19 with a focus on proactively recognizing crisis and
20 intervening effectively with consumers who are dually
21 diagnosed.

22 (g) The department and the State Department of
23 Mental Health shall collaborate to provide a statewide
24 perspective and technical assistance to local service
25 regions when local problem resolution mechanisms have
26 been exhausted and state level participation has been
27 requested by both local agencies.

28 (h) The director of the local regional center and the
29 director of the county mental health agency or their
30 designees shall meet as needed but no less than annually
31 to do all of the following:

32 (1) Review the effectiveness of the interagency
33 collaboration.

34 (2) Address any outstanding policy issues between the
35 two agencies.

36 (3) Establish the direction and priorities for ongoing
37 collaboration efforts between the two agencies.

38 (i) The regional center and the county mental health
39 agency shall work toward agreement on a
40 consumer-by-consumer basis on the presenting diagnosis



1 and medical necessity as defined by regulations of the
2 State Department of Mental Health.

3 (j) (1) Regional center consumers admitted into
4 psychiatric inpatient facilities due to a mental disorder
5 shall be the responsibility of the county mental health
6 department. A regional center shall be notified of the
7 admission of its clients to a psychiatric inpatient facility
8 and shall participate in discharge planning.

9 (2) The mental health department shall provide
10 psychiatric treatment until there is no further medical
11 necessity for acute inpatient care.

12 (3) Once it is determined that no medical necessity
13 exists, the regional center shall be responsible for the
14 placement of the consumer from the psychiatric
15 inpatient program.

16 (4) If placement by the regional center is delayed, the
17 consumer may remain in the psychiatric inpatient facility
18 for up to four administrative days pending his or her
19 placement.

20 (5) If the regional center is unable to effect an
21 appropriate placement for the consumer within the
22 four-day period prescribed in paragraph (3), the regional
23 center shall reimburse the county mental health
24 department for an administrative inpatient stay at the
25 administrative day rate established by the State
26 Department of Mental Health.

27 (k) By May 15 of each year, the department shall
28 provide all of the following information to the
29 Legislature:

30 (1) The availability of mobile crisis intervention
31 services, including generic services, by regional center
32 catchment area, including the names of vendors and rates
33 paid.

34 (2) A description of each regional center's funded
35 emergency housing options, including the names and
36 types of vendors, the number of beds and rates, including,
37 but not limited to, crisis emergency group homes, crisis
38 beds in a regular group home, crisis foster homes, motel
39 or hotel or psychiatric facility beds, and whether each

1 emergency housing option serves minors or adults and
2 whether it is physically accessible.

3 SEC. 20. Section 4697 is added to the Welfare and
4 Institutions Code, to read:

5 4697. (a) The Legislature finds and declares all of the
6 following:

7 (1) The methods of establishing rates of payment for
8 providers of services and supports to persons with
9 developmental disabilities in the community do not
10 always address the actual costs of ensuring high quality
11 and stability.

12 (2) State law and regulations *may* no longer reflect the
13 type and design of community-based services and
14 supports necessary to best meet the needs and choices of
15 individuals with developmental disabilities and their
16 families.

17 (3) Monitoring of service and support providers is
18 necessary to ensure the safety and satisfaction of
19 consumers and the monitoring system in California is
20 often complex, duplicative, inappropriately intrusive,
21 and contentious in fulfilling its charge.

22 (b) By January 15, 1999, the department shall establish
23 a task force to examine the current models of
24 community-based service and support delivery, the
25 associate ratesetting methodologies for providers of
26 services and supports to persons with developmental
27 disabilities and their families and the methods of
28 monitoring the quality of services and supports.

29 (c) The task force shall be composed of
30 representatives from the department, provider
31 representatives from each residential provider category,
32 provider representatives from each day and work
33 program vendor category, regional centers, area boards,
34 the state council, other statewide advocacy organizations,
35 legislative representatives, consumers, and family
36 members. One-third of the task force shall be composed
37 of consumers and family members, one-half of which shall
38 be appointed by the department and one-half of which
39 shall be appointed by the Organization of Area Boards.
40 The department shall pay reasonable travel costs for all

1 consumers and family members who are appointed to the
2 task force. The task force shall reflect the geographic and
3 cultural diversity of the state. Representatives from the
4 State Department of Social Services and the State
5 Department of Health Services shall participate as
6 members of the task force when monitoring functions are
7 discussed and recommendations developed.

8 (d) By June 15, 1999, the task force shall make
9 recommendations to the Legislature in all the following
10 areas:

11 (1) Proposed additions, deletions, and changes in
12 design of the continuum of community-based service and
13 support options.

14 (2) Proposed changes to ratesetting methodologies,
15 including, but not limited to each of the following:

16 (A) Adjustments for geographic differences.

17 (B) Maintaining, eliminating, or altering the rate
18 differential between owner- and staff-operated facilities.

19 (C) Incentives or disincentives that may influence
20 program size.

21 (D) Elimination of barriers to meeting individual
22 consumer needs and choices.

23 (E) Statewide guidelines and standards by which
24 regional centers may negotiate rates, service and support
25 components, and expected outcomes with service and
26 support providers, including an independent appeal
27 process through which providers may challenge their
28 rate of payment.

29 (3) Proposed changes as to how eligibility and
30 allowable costs for supported living services are
31 determined.

32 (4) Proposed changes in the vendorization process to
33 allow greater flexibility in fostering desirable and quality
34 services and supports while maintaining a meaningful
35 choice for consumers and families in selecting service and
36 support providers.

37 (5) Proposed changes to the methods of monitoring
38 service and support providers, including, but not limited
39 to, each of the following:

1 (A) The consolidation of various monitoring and
2 licensing functions under a single agency.

3 (B) Improved coordination between monitoring
4 agencies.

5 (C) Enhancements in technical support and positive
6 incentives to improve the quality of services and
7 supports.

8 (D) Program requirements based on consumer needs
9 and goals.

10 (E) Training of monitors.

11 (F) Establishing a quality feedback system to correct
12 identified problems.

13 SEC. 21. Section 4712 of the Welfare and Institutions
14 Code is amended to read:

15 4712. (a) The fair hearing shall be held within 20 days
16 of the receipt of a request for fair hearing by the
17 responsible state agency director. Either party may
18 request a continuance, which shall be granted at the
19 discretion of the hearing officer. Any continuance shall
20 not extend the time for a hearing beyond 30 days of
21 receipt of the request for the fair hearing unless it is
22 determined that good cause exists for an additional
23 continuance. A continuance for good cause beyond 30
24 days of the receipt of the request for fair hearing shall not
25 affect the provision of services pending a final
26 administrative decision. For purposes of this section, good
27 cause includes, but is not limited to, the following
28 circumstances:

29 (1) Death of a spouse, parent, child, brother, sister,
30 grandparent of the claimant or authorized
31 representative, or legal guardian or conservator of the
32 claimant.

33 (2) Personal illness or injury of the claimant or
34 authorized representative.

35 (3) Sudden and unexpected emergencies, including,
36 but not limited to, court appearances of the claimant or
37 authorized representative, conflicting schedules of the
38 authorized representative if the conflict is beyond the
39 control of the authorized representative.



1 (4) Unavailability of a witness or evidence, the
2 absence of which would result in serious prejudice to the
3 claimant.

4 (b) Notwithstanding Sections 19130, 19131, and 19132
5 of the Government Code, the department shall contract
6 for the provision of independent hearing officers.
7 Hearing officers shall have had at least two years of
8 full-time legal training at a California or American Bar
9 Association accredited law school or the equivalent in
10 training and experience as established by regulations to
11 be adopted by the department pursuant to Section 4705.
12 These hearing officers shall receive training in the law
13 and regulations governing services to developmentally
14 disabled individuals and administrative hearings.
15 Training shall include, but not be limited to, the
16 Lanterman Developmental Disabilities Services Act and
17 regulations adopted thereunder, relevant case law and
18 relevant superior court decisions known to the
19 department, information about services and supports
20 available to persons with developmental disabilities,
21 including innovative services and supports, *the standard*
22 *agreement contract between the department and*
23 *regional centers and the intended use of regional center*
24 *purchase-of-service policies*, and information and
25 training on protecting the rights of consumers at
26 administrative hearings, with emphasis on assisting,
27 where appropriate, those consumers represented by
28 themselves or an advocate inexperienced in
29 administrative hearings, including, but not limited to, the
30 responsibility and means to ensure that the record is fully
31 developed and the standardization of hearing
32 procedures, such as authentication and admission of
33 exhibits, among hearing officers. The State Department
34 of Developmental Services shall seek the advice of the
35 State Council on Developmental Disabilities, the
36 Organization of Area Boards, the protection and
37 advocacy agency designated by the Governor in this state
38 to fulfill the requirements and assurances of the federal
39 Developmental Disabilities Assistance and Bill of Rights
40 Act, contained in Chapter 75 (commencing with Section

1 6000) of Title 42 of the United States Code, the Association
2 of Regional Center Agencies, and other state agencies or
3 organizations as designated by the department in the
4 development of training materials and the
5 implementation of training procedures by the
6 department. The department shall provide formal
7 training for hearing officers on at least an annual basis.
8 The training shall be developed and presented by the
9 department, however, the department shall invite those
10 agencies and organizations listed in this subdivision to
11 participate.

12 (c) The hearing officer shall not be an employee,
13 agent, board member, or contractor of the service agency
14 against whose action the appeal has been filed, or a
15 spouse, parent, child, brother, sister, grandparent, legal
16 guardian, or conservator of the claimant, or any person
17 who has a direct financial interest in the outcome of the
18 fair hearing, or any other interest which would preclude
19 a fair and impartial hearing.

20 (d) When requested by the hearing officer, a service
21 agency shall provide information relevant to the matter
22 under appeal to the hearing officer prior to the fair
23 hearing. Immediate notice of the documents provided to
24 the hearing officer shall be mailed by the service agency
25 to the claimant and the authorized representative, either
26 of whom may submit additional documentation to the
27 hearing officer prior to the hearing.

28 (e) The fair hearing shall be held at a time and place
29 reasonably convenient to the claimant and the
30 authorized representative. ~~The fair hearing shall not be~~
31 ~~held at the regional center if objected to by the claimant~~
32 ~~or the authorized representative. The claimant or the~~
33 *authorized representative of the claimant and the*
34 *regional center shall agree on the location of the fair*
35 *hearing.*

36 (f) Merits of a pending fair hearing shall not be
37 discussed between the hearing officer and a party outside
38 the presence of the other party.

39 (g) The hearing officer shall voluntarily disqualify
40 himself or herself and withdraw from any case in which

1 he or she cannot accord a fair and impartial hearing or
2 consideration. Any party may request the disqualification
3 of the hearing officer by filing an affidavit, prior to the
4 taking of evidence at a hearing, stating with particularity
5 the grounds upon which it is claimed that a fair and
6 impartial hearing cannot be accorded. The issue shall be
7 decided by the hearing officer.

8 (h) Both parties to the fair hearing shall have the
9 rights specified in subdivision (a) of Section 4710.6.

10 (i) The fair hearing need not be conducted according
11 to the technical rules of evidence and those related to
12 witnesses. Any relevant evidence shall be admitted. All
13 testimony shall be under oath or affirmation which the
14 hearing officer is empowered to administer.

15 (j) A recording shall be made of the proceedings
16 before the hearing officer. Any cost of recording shall be
17 borne by the responsible state agency.

18 (k) The fair hearing shall be conducted in the English
19 language. However, if the claimant, the claimant's
20 guardian or conservator, parent of a minor claimant, or
21 authorized representative does not understand English,
22 an interpreter shall be provided by the responsible state
23 agency.

24 (l) The fair hearing shall be open to the public except
25 at the request of the claimant or authorized
26 representative or when personnel matters are being
27 reviewed.

28 (m) The agency awarded the contract for
29 independent hearing officers shall annually conduct, or
30 cause to be conducted, an evaluation of the hearing
31 officers who conduct hearings under this part. The
32 department shall approve the methodology used to
33 conduct the annual evaluation. Information and data for
34 this evaluation shall be solicited from consumers who
35 were claimants in an administrative hearing over the past
36 year, their family members or authorized representative
37 if involved in the hearing, regional centers, and
38 nonattorney advocates and attorneys who represented
39 either party in an administrative hearing over the past
40 year. The areas of evaluation shall include, but not be

1 limited to, the hearing officers' demeanor toward parties
2 and witnesses, conduct of the hearing in accord with
3 fairness and standards of due process, ability to fairly
4 develop the record in cases where consumers represent
5 themselves or are represented by an advocate that does
6 not have significant experience in administrative
7 hearings, use of legal authority, clarity of written
8 decisions, and adherence to the requirements of
9 subdivision (b) of Section 4712.5. The department shall be
10 provided with a copy of the evaluation and shall use the
11 evaluation in partial fulfillment of its evaluation of the
12 contract for the provision of independent hearing
13 officers. A summary of the data collected shall be made
14 available to the public upon request, provided that the
15 names of individual hearing officers shall not be disclosed.

16 SEC. 22. Section 4712.5 of the Welfare and Institutions
17 Code is amended to read:

18 4712.5. (a) Within 10 days of the concluding day of
19 the state hearing, the hearing officer shall render a
20 written decision and shall transmit the decision to each
21 party and to the director of the responsible state agency.

22 (b) The hearing officer's decision shall be in ordinary
23 and concise language. It shall contain the following:

24 (1) A summary of facts, a statement of the evidence
25 from the proceedings which was relied on, a decision on
26 each of the issues presented, and identification of the
27 statutes, regulations, and policies supporting the decision.
28 The decision shall be in ordinary and concise language.

29 (2) Notification that this is the final administrative
30 decision, both parties shall be bound thereby, and either
31 party may appeal any final administrative decision to a
32 court of competent jurisdiction within 90 days.

33 (c) The department shall collect and maintain, or
34 cause to be collected and maintained, redacted copies of
35 all administrative hearing decisions issued under this
36 division. Hearing decisions shall be categorized by the
37 type of service or support that was the subject of the
38 hearing and by the year of issuance. The department shall
39 make copies of the decisions available to the public upon
40 request at a cost per page not greater than that which it

1 charges for document requests submitted pursuant to
2 Chapter 3.5 (commencing with Section 6250) of Division
3 7 of Title 1 of the Government Code. The department
4 shall use this information in partial fulfillment of its
5 obligation to monitor regional centers and in its
6 evaluation of the contract for the provision of
7 independent hearing officers.

8 SEC. 23. Section 4740 of the Welfare and Institutions
9 Code is amended to read:

10 4740. The Legislature finds the following:

11 (a) The quality of care provided to persons with
12 developmental disabilities by residential facilities is
13 contingent upon a closely coordinated “team” effort by
14 the regional center or its designee, the person with
15 developmental disabilities, the parent or representative
16 if appropriate, the residential facility administrator, and
17 the licensing agency. The rights and responsibilities of
18 each must be identified in order to assure clear direction
19 and accountability for each.

20 (b) The quality of care is impaired when inordinate
21 numbers of staff from placement and licensing agencies
22 give direction to the facility administrator regarding care
23 and service requirements.

24 SEC. 24. Section 4741 of the Welfare and Institutions
25 Code is amended to read:

26 4741. An adult person with a developmental disability
27 has the legal right to determine where his or her
28 residence will be. Except in a situation which presents
29 immediate danger to the health and well-being of the
30 individual, the regional center or its designee shall not
31 remove a consumer from a residential care facility against
32 the client’s wishes unless there has been specific court
33 action to abridge such right with respect to an adult or
34 unless the parent, guardian or conservator consents with
35 respect to a child.

36 SEC. 25. Section 4742 of the Welfare and Institutions
37 Code is amended to read:

38 4742. The regional center or its designated
39 representative shall (a) guide and counsel facility staff
40 regarding the care and services and supports required by

1 each consumer served by the regional center; and (b)
2 monitor the care and services and supports provided the
3 individual to ensure that care and services and supports
4 are provided in accordance with the individual program
5 plan.

6 SEC. 26. Section 4742.1 is added to the Welfare and
7 Institutions Code, to read:

8 4742.1. (a) A statement made by a regional center
9 representative when discharging his or her obligation to
10 monitor the provision of services and supports pursuant
11 to this division shall be a privileged communication,
12 subject to subdivision (b).

13 (b) A statement shall not be privileged pursuant to
14 subdivision (a) if a party to a judicial action demonstrates
15 that the regional center representative made the
16 disputed statement with knowledge of its falsity or with
17 reckless disregard for the truth.

18 SEC. 27. Section 4743 of the Welfare and Institutions
19 Code is amended to read:

20 4743. It is the intent of the Legislature that to the
21 greatest extent possible, the staff of the regional center or
22 its designee are assigned so as to minimize the number of
23 persons responsible for programs provided in a given
24 facility.

25 The regional center or its designee shall designate the
26 staff person responsible for assuring that each individual
27 consumer's program plan is carried out. One person shall
28 be assigned by the regional center as the principal liaison
29 to a facility and to monitor the provision of care and the
30 services provided by that facility in accordance with the
31 individual program plans. If, due to the number of
32 regional center consumers in the facility, additional staff
33 of a regional center or its designee serve consumers in the
34 facility, one person shall be assigned as having primary
35 responsibility for, and assure consistency and continuity
36 of, directions to the administrator and for the monitoring
37 of care and services.

38 SEC. 28. Section 4744 of the Welfare and Institutions
39 Code is amended to read:



1 4744. The regional center or its designee shall provide
2 to the residential facility administrator all information in
3 its possession concerning any history of dangerous
4 propensity of the consumer prior to the placement in that
5 facility. However, no confidential consumer information
6 shall be released pursuant to this section without the
7 consent of the consumer or authorized representative.

8 SEC. 29. Section 4745 of the Welfare and Institutions
9 Code is amended to read:

10 4745. During each visit to the facility, the designated
11 staff person shall inform the administrator orally of any
12 substantial inadequacies in the care and services
13 provided, the specific corrective action necessary and the
14 date by which corrective action must be completed. The
15 designated staff person shall confirm this information in
16 writing to the administrator within 48 hours after the oral
17 notice and inform the administrator in writing of the right
18 to appeal the findings.

19 SEC. 30. Section 4747 of the Welfare and Institutions
20 Code is amended to read:

21 4747. If an adult person or the parent, guardian, or
22 conservator or authorized representative, including
23 those appointed pursuant to Section 4590 or subdivision
24 (e) of Section 4705, on behalf of a child requests a
25 relocation, the regional center or its designee shall
26 provide assistance in locating and moving to another
27 residence or schedule an individual program plan
28 meeting, if appropriate.

29 SEC. 31. *(a) The Legislature finds that the current*
30 *process by which regional centers vendorize*
31 *community-based service providers is unnecessarily*
32 *burdensome for both the regional center and for*
33 *providers; that it has not had the effect of increasing the*
34 *range of services and supports necessary to afford*
35 *consumers and families a meaningful choice in service*
36 *provider; that it has resulted in an overabundance of*
37 *some types of services and supports and a scarcity of other*
38 *types of services and supports; and that it has not*
39 *enhanced the quality of existing services and supports.*

1 (b) It is the intent of the Legislature that the
2 vendorization process currently defined in statute and
3 regulation be revised to allow regional centers, in
4 partnership with their communities, greater flexibility in
5 vendorizing service and support providers who meet
6 local needs and offer services and supports of high quality.

7 (c) It is also the intent of the Legislature that the
8 vendorization process ensure that consumers and
9 families have a meaningful choice in the selection of
10 service and support providers and that an independent
11 appeal process be established for providers who wish to
12 challenge a decision of the regional center regarding
13 their vendor status.

14 SEC. 32. Notwithstanding Section 17610 of the
15 Government Code, if the Commission on State Mandates
16 determines that this act contains costs mandated by the
17 state, reimbursement to local agencies and school
18 districts for those costs shall be made pursuant to Part 7
19 (commencing with Section 17500) of Division 4 of Title
20 2 of the Government Code. If the statewide cost of the
21 claim for reimbursement does not exceed one million
22 dollars (\$1,000,000), reimbursement shall be made from
23 the State Mandates Claims Fund.

24 Notwithstanding Section 17580 of the Government
25 Code, unless otherwise specified, the provisions of this act
26 shall become operative on the same date that the act
27 takes effect pursuant to the California Constitution.